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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. No. 1511/93.

Dt. of Decision : 12-9-94.

G. Yadaiah Chandraiah

.. Applicant.

Vs

1. The General Manager,
SC Rly, Rail Nilayam,
Secunderabad.

2. Divisional Railway Manager(P),
Secunderabad (BG) Division,
SCRly, Secunderabad.

3. Station Superintendent,
SC Rly, Hyderabad.

.. Respondents.

Counsel for the Applicant : Mr. P. Krishna Reddy

Counsel for the Respondents : Mr. V. Bhimanna, Addl.CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI A.B. GORTHY : MEMBER (ADMN.)

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D.A.No.1511/93

Dt. of decision: 12-9-1994

O R D E R

{ As per the Hon'ble Sri A.B. Gorthi, Member (A) }

The applicant ~~who~~ was initially engaged in 1982 as a Substitute Safaiwala by the Health Inspector, Hyderabad. He ~~has~~^{is} aggrieved by the order of the Divisional Railway Manager, Secunderabad dt.15-3-93 terminating his engagement as a substitute Safaiwala.

2. The applicant states that ever since his initial engagement in 1982 as a substitute Safaiwala, he continued to work as such till the impugned order was issued. In the mean time, the applicant was paid at the minimum of the basic scale of pay for a Group-D employee i.e. Rs.750/- per month. For the period from 1-1-90 to 1-7-90 he was not paid any salary. By the end of July he was paid the entire salary at the rate of Rs.750/- per month. A similar procedure was followed even for the subsequent period of 1-8-90 to 1-3-93 for which he was paid again at the rate of Rs.750/- per month at the end of that period.

3. The respondents in their reply affidavit have not disputed the fact that the applicant was engaged in 1982 intermittent breaks. The contention of the respondents however is that the very initial engagement of the applicant by the Health Inspector was improper, in that, the said Health Inspector appointed the applicant without obtaining prior approval of the General Manager which

was required under the extant instructions. When this irregularity was detected, there was some difficulty in getting sanction for payment of wages to the applicant. It was for this reason that during 1990 the payment of wages to the applicant was delayed. The question of granting ex-post facto sanction for deeming the engagement of the applicant as proper could not be finalised for the reason that the officer responsible for the initial engagement ^{had} ~~was~~ retired from service.

4. Heard learned counsel for both the parties. For the applicant it is stated that the fact that the applicant was paid at the rate of Rs.750/- per month during 1990 would show that he acquired temporary status and as such he would be entitled to all the benefits of temporary status. Accordingly, the applicant's counsel urged that not only the impugned order of termination be set aside, but also a direction be given to the respondents to pay the applicant back wages from the date of termination of the engagement.

5. Sri V. Bhimanna, learned standing counsel for the respondents reiterated what has been stated in the reply affidavit and urged that as the initial engagement of the applicant was done without following the proper procedure and without obtaining prior approval of the General Manager, ^{the} ~~the~~ applicant would not get the benefit of continued engagement for the purpose of grant of temporary status/regularisation. The respondents, he contended, had no other alternative but to disengage the applicant under the circumstances.

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6. The applicant is a poor Safaiwala engaged by the respondents in 1982 and admittedly the applicant served the respondents without any blemish for more than 11 years. If there was any irregularity in the form of engagement of the applicant, he could not be made responsible for the same or at least he could not be made to suffer the consequences thereof. This, in our view, is a proper case for grant of ex-post facto sanction by the General Manager. We do not find any justification for the manner in which ex-post facto sanction was denied to the applicant on the ground that the officer responsible for his initial engagement had since retired. The necessary ex-post facto sanction of the General Manager may now be obtained keeping in view our aforestated observations.


7. In view of the aforestated facts the application deserves to be allowed to the extent that the impugned order of the DRM, dt.15-3-93 has to be set aside. We set aside the same and direct the respondents that the applicant be reengaged within one month. The applicant shall not be entitled to back wages for the period that he did not work i.e. from the date of disengagement on 15-3-93 till the date of reengagement in compliance with this order. The said period however shall reckon for his seniority as a substitute Safaiwala. The respondents are further directed to consider the case of the applicant for grant of temporary status and for his subsequent regularisation taking into consideration the length of service rendered by the applicant

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as substitute Safaiwala and keeping in view the extent instructions/scheme.

8. The OA is ordered accordingly with no order as to costs.


(A.B. Gonthi)
Member (A)


(A.V. Haridasan)
Member (J)

Dt. 12-9-1994
Open Court Dictation

kmv


Dy. Registrar (Judl.)

Copy to:-

1. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. Divisional Railway Manager(P), Secunderabad(BG) Division, S.C.Railway, Secunderabad.
3. Station Superintendent, South Central Railway, Hyderabad.
4. One copy to Sri. P.Krishna Reddy, advocate, CAT, Hyd.
5. One copy to Sri. V.Bhimanna, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

Dated: 12/9/94

ORDER/JUDGMENT.

M.A./R.P/C.P/No.

U.A.NO.

T.A.NO.

in

(W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

No spare copy

Central Administrative Tribunal
DESPATCH
22 SEP 1994
HYDERABAD BENCH.

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